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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of)
EDWARD F. MYERS) FOR: ARTIFICIAL LIVER APPARATUS
Serial No.: 08/809,677) AND METHOD
Filed: SEPTEMBER 27, 1994)
Group Art Unit: Unknown

RECEIVED

2 SEP 2000

PETITION UNDER 37 CFR 1.137(b) FOR
REVIVAL OF APPLICATION ABANDONED UNINTENTIONALLY

Assistant Commissioner for Patents
Washington, D.C. 20231

Attention: Application Branch

SEP 08 2000

OFFICE OF PETITION
DEPARTMENT OF COMMERCE

Dear Sir:

This application became abandoned on June 12, 2000 based on a response to the Notification of Missing Requirements dated August 9, 1999 not having been filed. This Petition is being filed within one year of the date of abandonment as required by 37 CFR 1.137(b).

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on:

August 28, 2000
(Mailing Date)

Eleanor M. Musick
(Typed Name)

August 28, 2000
(Date of Signature)

In compliance with the requirements of 37 CFR 1.137(b), the following is submitted:

(1) The delay in filing the response to Notification of Missing Requirements was unintentional.

(2) The application status is SMALL entity and the Petition fee as set forth in 37 CFR 1.17(m) of \$605.00 is enclosed; and

(3) A Terminal Disclaimer as set forth in 37 CFR 1.321 and fee as set forth in 37 CFR 1.20(d) of \$55.00 is enclosed. In addition, Applicants submit:

(4) Copies of the (a) Revocation of Previous Power of Attorney and Grant of New Power of Attorney; (b) Petition for One-Month Extension of Time; (c) Response to Notification of Missing Requirements; and (d) Status Inquiry;

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to our deposit account 02-4070. A duplicate copy of this request is enclosed for accounting.

REMARKS

Although only a statement that the abandonment was unintentional plus the fee and Terminal Disclaimer is all that is normally required, Applicant wishes to provide the Examiner a brief explanation surrounding the facts of abandonment.

A Revocation of Previous Power of Attorney and Grant of New Power of Attorney was mailed July 6, 1999 by First Class Mail but apparently not received in the Patent and Trademark Office.

A Response to the Notification of Missing Requirements was "Express Mailed" to the Patent and Trademark Office dated August 9, 1999. Included in this mailing were:

(1) A copy of Form PCT/DO-50-005

plus payment of the amount of \$240.00 for payment of the surcharge fee under 37 CFR 1.49(e), plus payment of the one-month extension of time;

- (4) A copy of Power of Attorney as filed on March 16, 1998;
- (5) A copy of Revocation of Previous Power of Attorney and Grant of New Power of Attorney as submitted on July 6, 1999;

and

- (6) A Return Postcard to verify receipt of the "Express Mail" package.

While there is verification that the Response was deposited with the U.S. Postal Service, no return postcard was received.

After a period of 7 months without acknowledgment from the Patent and Trademark Office regarding our submissions, a Status Inquiry concerning the subject application was mailed by First Class Mail on March 20, 2000. A Return Postcard verified the receipt of the Status Inquiry by the Patent and Trademark Office, however, no response to the Status Inquiry was received by the Applicant.

A Notification of Abandonment was mailed by the Patent and Trademark Office on June 12, 2000 and received by the law firm Fish & Richardson on June 20, 2000. Having terminated their representation of the Applicant as of July 6, 1999 and transferred Power of Attorney to Brown Martin Haller & McClain, the Notification of Abandonment was forwarded out of their office. Due to a clerical error within Fish & Richardson, the Notification of Abandonment was directed to another San Diego Intellectual Property Law Firm which received the Notice on June 26, 2000. The document was finally received by Brown Martin Haller & McClain on July 3, 2000, after the onset of abandonment.

CONCLUSION

Applicant submits that the action which caused the application to become abandoned was unintentional. It is the intent of the Applicant to correct the

Respectfully submitted,

Dated: August 2, 2000

By:



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Docket No.: 7728-PA01